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Attorneys for Defendants Romi Mayder, Wesley Mayder,
Silicon Test Systems Inc., and Silicon Test Solutions LLC

United States District Court
Northern District of California, San Jose Division

VERIGY U.S. INC., a Delaware corporation

Plaintiff,

vs.

ROMI OMAR MAYDER, an individual;
WESLEY MAYDER, an individual;
SILICON TEST SYSTEMS INC., a
California corporation; SILICON TEST
SOLUTIONS LLC, a California limited
liability corporation,

Defendants.

Case No. 5:07-cv-04330 (RMW) (HRL)

**Declaration of Dan Fingerman in Support of
Defendants' Administrative Motion to Remove
Incorrectly Filed Document, Docket No. 56**

Judge: Hon. Ronald M. Whyte

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1 I, Dan Fingerman, declare as follows:

2 1. I am an attorney with the law firm of Mount & Stoelker, P.C., counsel for the
3 Defendants in this action, Romi Mayder, Wesley Mayder, Silicon Test Systems Inc., and Silicon Test
4 Solutions LLC (collectively, "Defendants"). I have personal knowledge of the facts set forth in this
5 declaration and, if called upon to testify in this Court as to those facts, my testimony would be as
6 stated herein.

7 2. I submit this declaration in support of the Defendants' Administrative Motion to
8 Remove Incorrectly Filed Document, Docket No. 56.

9 3. On October 11, 2007, the Defendants submitted their Brief in Response to Order to
10 Show Cause Re Preliminary Injunction (Docket No. 49) and supporting documents. The brief and
11 many of its supporting documents contain information that both parties have designated
12 "Confidential" or "Highly Confidential — Attorneys' Eyes Only" pursuant to the Stipulated
13 Protective Order (Docket No. 28).

14 4. One of the supporting documents that contains Highly Confidential information was
15 the Declaration of Thomas Schneck and its exhibits (Docket No. 56). Exhibit C is one of the exhibits
16 that contains Highly Confidential information. In accordance with Civil L.R. 79-5, this declaration
17 and its confidential exhibits (including Exhibit C) were lodged under seal, and a motion seeking court
18 approval to seal them was simultaneously filed. A redacted version of the declaration was also
19 publicly e-filed.

20 5. The next morning, I realized that a portion Exhibit C was inadvertently left in the
21 redacted, publicly e-filed version of Mr. Schneck's declaration. I took immediate action to shield that
22 document from public view. I telephoned the e-filing help desk and explained the error. The e-filing
23 staff placed a temporary "lock" on the document and asked me to e-file a corrected version.

24 6. I promptly filed a corrected version (Docket No. 58). It is my understanding that the
25 temporary "lock" remains on Docket No. 56, which shields that document from public view. It is my
26 understanding that this lock will remain in place until the court rules on this motion to remove Docket
27 No. 56 from the record.
28

1 7. I was asked by a member of the e-filing staff to send an email to the e-filing help desk
2 to confirm the substance of our telephone conversation. A true and correct copy of that email is
3 attached hereto as Exhibit 1.

4 8. I received response from the ECF help desk, confirming that my request has been
5 processed. A true and correct copy of that email is attached hereto as Exhibit 2.

6 9. I promptly notified Verigy's counsel of the inadvertent error and of the steps being
7 undertaken to correct it. I also invoked ¶ 5.3 of the Stipulated Protective Order (Docket No. 28) and
8 notified Verigy's counsel that this error is not a waiver of the "Highly Confidential — Attorneys'
9 Eyes Only" status of the document in question. A true and correct copy of my email to Verigy's
10 counsel is attached hereto as Exhibit 3.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is true
12 and correct and that this declaration was executed on the date below at San Jose, California.

13
14 Dated: October 12, 2007

/s/
Dan Fingerman

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Exhibit 1

Daniel H. Fingerman

From: Daniel H. Fingerman
Sent: Friday, October 12, 2007 10:34 AM
To: 'ecfhelpdesk@cand.uscourts.gov'
Cc: Daniel S. Mount; Kathryn G. Spelman; Kevin M. Pasquinelli; Michelle McManus; 'Mindy Morton'; 'John Fowler'; 'Don Gagliardi'
Subject: Incorrectly-filed document, Verigy v. Mayder, Case No. 5:07-cv-04330 (RMW)
Categories: sites001

Dear ECF Help Desk:

I was asked to send this email message to document the telephone call I had with a member of your staff this morning.

Yesterday I filed several documents. Several documents were also lodged under seal, and I filed a motion seeking court approval to file them under seal. The documents lodged under seal include a Declaration of Thomas Schneck (Docket No. 56) and several of its exhibits. While lodging these documents under seal, I also e-filed redacted versions for public filing.

Exhibit C to the Schneck declaration is highly confidential and was lodged under seal. By inadvertent error, however, a portion of Exhibit C was accidentally left in the publicly e-filed document.

Immediately upon realizing this error, I called the ECF help desk and spoke with a member of your staff. He assisted me by offering to "lock" public access to the Schneck declaration and all of its exhibits (Docket No. 56) with the understanding that I would promptly e-file a corrected version. I have now e-filed the corrected version (Docket No. 58).

I was also told that court approval is required to permanently remove an e-filed document from the record. We will file a motion seeking such a court order today, using the e-filing event "Motion to Remove Incorrectly Filed Document". It is my understanding that the "locked" document will continue to be held that way and will not be available to the public until the court has ruled on this motion.

I appreciate the prompt and courteous assistance I received from your staff in this matter. Please do not hesitate to contact me if you have any questions.

Dan Fingerman, Esq.
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Web: www.mount.com

This email and its attachments are intended solely for the intended recipient hereof and may contain legally privileged or other confidential

information. If you have received this email or its attachments in error, please destroy the original and any copies thereof and immediately notify Mount & Stoelker, P.C. at (408) 279-7000.

Exhibit 2

Daniel H. Fingerman

From: ECFHELPDESK@cand.uscourts.gov
Sent: Friday, October 12, 2007 11:30 AM
To: Daniel H. Fingerman
Cc: Daniel S. Mount; Don Gagliardi; John Fowler; Kevin M. Pasquinelli; Kathryn G. Spelman; Michelle McManus; Mindy Morton
Subject: Re: Incorrectly-filed document, Verigy v. Mayder, Case No. 5:07-cv-04330 (RMW)
Categories: sites001

The docket has been modified and your request is now complete.

Please review the docket directly for accuracy. You will need to use your PACER login to do so.
Also note that the court staff cannot delete any documents filed in ECF without order of the judge.

For more information on e-filing errors, please see our FAQ at:
https://ecf.cand.uscourts.gov/cand/faq/how_do_i/how_do_i.htm#HW10

Thank you,

~The ECF Help Desk for the Northern District of California
<http://ecf.cand.uscourts.gov>

ECF TIP:

You should only scan documents which exist only in paper. All others should be converted to PDF directly from your computer.
For more info, please see our FAQ sections.

"Daniel H. Fingerman" <dfingerman@MOUNT.com>
10/12/2007 10:33 AM To:<ecfhelpdesk@cand.uscourts.gov>
cc"Daniel S. Mount" <dan@MOUNT.com>, "Kathryn G. Spelman"
<kspelman@mount.com>, "Kevin M. Pasquinelli" <kpasquinelli@MOUNT.com>,
"Michelle McManus" <mmcmanus@MOUNT.com>, "Mindy Morton" <mmorton@be-law.com>, "John Fowler" <jfowler@be-law.com>, "Don Gagliardi"
<dgagliardi@be-law.com>
SubjectIncorrectly-filed document, Verigy v. Mayder, Case No. 5:07-cv-04330 (RMW)

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Immediately upon realizing this error, I called the ECF help desk and spoke with a member of your staff. He assisted me by offering to "lock" public access to the Schneck declaration and all of its exhibits (Docket No. 56) with the understanding that I would promptly e-file a corrected version. I have now e-filed the corrected version (Docket No. 58).

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Exhibit 3

Daniel H. Fingerman

From: Daniel H. Fingerman
Sent: Friday, October 12, 2007 10:44 AM
To: 'Mindy Morton'; 'John Fowler'; 'Don Gagliardi'
Cc: Daniel S. Mount; Kathryn G. Spelman; Kevin M. Pasquinelli; Michelle McManus
Subject: RE: Incorrectly-filed document, Verigy v. Mayder, Case No. 5:07-cv-04330 (RMW)

Categories: sites001

Counsel:

Please be advised that Exhibit C to the Declaration of Thomas Schneck (Docket No. 56) is highly confidential. This is one of the documents we lodged under seal and served by hand to your office yesterday.

This morning, we realized that a portion of Exhibit C was e-filed publicly by inadvertent error. The Defendants invoke ¶ 5.3 of the Stipulated Protective Order to correct the inadvertent failure to designate Exhibit C as highly confidential.

I have e-filed a corrected version of the declaration and its exhibits (Docket No. 58). The version filed in error has been locked from public access by the ECF staff, and today we will file an administrative motion seeking court approval to permanently remove it, and to substitute the corrected version in its place.

Please do not hesitate to contact me if you have any questions.

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-----Original Message-----

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